

CHAPTER 187

TAXATION

HOUSE BILL 22-1301

BY REPRESENTATIVE(S) Soper and Roberts, Holtorf, McLachlan, Pelton, Rich, Titone, Will, Burnett, Bockenfeld, Exum, Herod, Hooton, Jodeh, Lindsay, Lontine, McCluskie, Young, Geitner, McCormick, Mullica, Neville, Valdez D.; also SENATOR(S) Donovan and Simpson, Buckner, Ginal, Gonzales, Jaquez Lewis, Kolker, Moreno, Pettersen, Scott, Sonnenberg, Fenberg.

AN ACT

CONCERNING THE TREATMENT OF CONTROLLED ENVIRONMENT AGRICULTURAL FACILITIES FOR PROPERTY TAX PURPOSES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 39-1-102, **amend** (1.1), (1.3) introductory portion, and (1.3)(b); and **add** (3.3) and (6.2) as follows:

39-1-102. Definitions. As used in articles 1 to 13 of this title 39, unless the context otherwise requires:

- (1.1) (a) "Agricultural and livestock products" means plant or animal products in a raw or unprocessed state that are derived from the science and art of agriculture, regardless of the use of the product after its sale and regardless of the entity that purchases the product. "Agriculture", for the purposes of this subsection (1.1), means farming, ranching, animal husbandry, and horticulture.
- (b) ON AND AFTER JANUARY 1, 2023, FOR THE PURPOSES OF THIS SUBSECTION (1.1), "AGRICULTURAL AND LIVESTOCK PRODUCTS" INCLUDES CROPS GROWN WITHIN A CONTROLLED ENVIRONMENT AGRICULTURAL FACILITY IN A RAW OR UNPROCESSED STATE FOR HUMAN OR LIVESTOCK CONSUMPTION. FOR THE PURPOSES OF THIS SUBSECTION (1.1)(b), "AGRICULTURAL AND LIVESTOCK PRODUCTS" DOES NOT INCLUDE MARIJUANA, AS DEFINED IN SECTION 18-18-102 (18)(a), OR ANY OTHER NONFOOD CROP AGRICULTURAL PRODUCTS.
- (1.3) "Agricultural equipment ~~which~~ THAT is used on the farm or ranch OR IN A CEA FACILITY in the production of agricultural products":

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(b) Includes:

(I) Any mechanical system used on the farm or ranch for the conveyance and storage of animal products in a raw or unprocessed state, regardless of whether or not such mechanical system is affixed to real property; ~~and~~

(II) Silviculture personal property that is designed, adapted, and used for the planting, growing, maintenance, or harvesting of trees in a raw or unprocessed state; AND

(III) ANY PERSONAL PROPERTY WITHIN A FACILITY, WHETHER ATTACHED TO A BUILDING OR NOT, THAT IS CAPABLE OF BEING REMOVED FROM THE FACILITY, AND IS USED IN DIRECT CONNECTION WITH THE OPERATION OF A CONTROLLED ENVIRONMENT AGRICULTURAL FACILITY, WHICH FACILITY IS USED SOLELY FOR PLANTING, GROWING, OR HARVESTING CROPS IN A RAW OR UNPROCESSED STATE.

(3.3) "CONTROLLED ENVIRONMENT AGRICULTURAL FACILITY" OR "CEA FACILITY" MEANS A NONRESIDENTIAL STRUCTURE AND RELATED EQUIPMENT AND APPURTENANCES THAT COMBINES ENGINEERING, HORTICULTURAL SCIENCE, AND COMPUTERIZED MANAGEMENT TECHNIQUES TO OPTIMIZE HYDROPONICS, PLANT QUALITY, AND FOOD PRODUCTION EFFICIENCY FROM THE LAND'S WATER FOR HUMAN OR LIVESTOCK CONSUMPTION. THE SOLE PURPOSE OF GROWING CROPS IN A CEA FACILITY IS TO OBTAIN A MONETARY PROFIT FROM THE WHOLESALE OF PLANT-BASED FOOD FOR HUMAN OR LIVESTOCK CONSUMPTION.

(6.2) "HYDROPONICS" MEANS A SYSTEM IN WHICH WATER SOLUBLE PRIMARY OR SECONDARY PLANT NUTRIENTS OR MICRONUTRIENTS, OR A COMBINATION OF SUCH NUTRIENTS, ARE PLACED IN INTIMATE CONTACT WITH A PLANT'S ROOT SYSTEM THAT IS BEING GROWN IN WATER OR AN INERT SUPPORTIVE MEDIUM THAT SUPPLIES PHYSICAL SUPPORT FOR THE ROOTS.

SECTION 2. In Colorado Revised Statutes, **amend** 39-3-122 as follows:

39-3-122. Agricultural equipment used in production of agricultural products - CEA facilities - exemption. (1) Agricultural equipment ~~which~~ THAT is used on any farm or ranch in the production of agricultural products ~~shall be~~ is exempt from the levy and collection of property tax.

(2) ON AND AFTER JANUARY 1, 2023, BUT PRIOR TO JANUARY 2, 2028, AGRICULTURAL EQUIPMENT THAT IS USED IN ANY CEA FACILITY IS EXEMPT FROM THE LEVY AND COLLECTION OF PROPERTY TAX.

SECTION 3. In Colorado Revised Statutes, **add** 39-5-134 as follows:

39-5-134. Controlled environment agricultural facility - valuation - affidavit - definition - repeal. (1) AS USED IN THIS SECTION, "CONTROLLED ENVIRONMENT AGRICULTURAL FACILITY" OR "CEA FACILITY" HAS THE SAME MEANING AS SPECIFIED IN SECTION 39-1-102 (3.3).

(2) A CEA FACILITY IS VALUED FOR ASSESSMENT PURPOSES AS ALL OTHER

AGRICULTURAL PROPERTY USING THE COST, MARKET, AND INCOME APPROACHES TO VALUE.

(3) IF THE SOLE USE OF THE CEA FACILITY IS NOT THE GROWING OF CROPS FOR HUMAN OR LIVESTOCK CONSUMPTION, THEN THE PROPERTY IS CLASSIFIED AND VALUED FOR ASSESSMENT PURPOSES BASED ON ACTUAL USE.

(4) AS PART OF THE PERSONAL DECLARATION THE OWNER OF A CEA FACILITY SIGNS AND RETURNS TO THE COUNTY ASSESSOR PURSUANT TO SECTIONS 39-5-107 AND 39-5-108, THE OWNER SHALL INCLUDE AN AFFIDAVIT EXECUTED BY THE OWNER IN WHICH THE OWNER AFFIRMS THAT THE CEA FACILITY MEETS THE REQUIREMENTS OF SECTION 39-1-102 (3.3), INCLUDING THE REQUIREMENTS THAT THE FACILITY OPTIMIZES HYDROPONICS AND THAT THE SOLE PURPOSE OF THE CEA FACILITY IS TO OBTAIN A MONETARY PROFIT FROM THE WHOLESALE OF PLANT-BASED FOOD FOR HUMAN OR LIVESTOCK CONSUMPTION. IF THE CROP GROWN IN THE CEA FACILITY IS HEMP, THE OWNER MUST ALSO INCLUDE A COPY OF A LICENSE TO VERIFY TO THE ASSESSOR THAT THE CROP IS NOT MARIJUANA.

(5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A CEA FACILITY SHALL NOT VIOLATE THE TERMS AND CONDITIONS OF ANY APPLICABLE WATER COURT DECREE ISSUED PURSUANT TO ARTICLE 92 OF TITLE 37 AND SHALL NOT MATERIALLY INJURE WATER RIGHTS OR CONDITIONAL WATER RIGHTS GRANTED UNDER ARTICLE 92 OF TITLE 37.

(6) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2029.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 20, 2022